
Draft for Public Comment

**Transportation Conformity Determination Report for
the 1997 Ozone NAAQS for the**

**Kalamazoo - Battle Creek Limited Orphan
Maintenance Area
(Calhoun, Kalamazoo, and Van Buren Counties)**

**Marshall Modernization Projects in Rural Calhoun
County and the Battle Creek Area Transportation
Study Area**

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EXECUTIVE SUMMARY

Road projects, known collectively as Marshall Modernization, are being constructed within rural Calhoun County and the Battle Creek Area Transportation Study (BCATS) area, requiring federal approval or deemed air quality regionally significant. Projects are being funded with only state funds. This conformity report is to ensure that the 1997 ozone maintenance area meet the federal transportation conformity requirements in 40 CFR Part 93 Subpart A.

Clean Air Act (CAA) section 176(c) (42 U.S.C. 7506(c)) requires federally funded or approved highway and transit activities are consistent with (“conform to”) the purpose of the State Implementation Plan (SIP). Conformity to the purpose of the SIP means that transportation activities will not cause or contribute to new air quality violations, worsen existing violations, or delay timely attainment of the relevant National Ambient Air Quality Standard (NAAQS) or any interim milestones. 42 U.S.C. 7506(c)(1). The United States Environmental Protection Agency’s (EPA) transportation conformity rules establish the criteria and procedures for determining whether Metropolitan Transportation Plan (MTPs), TIPs, and federally supported highway and transit projects conform to the SIP, 40 CFR Parts 51.390 and 93.

On Feb. 16, 2018, the United States Court of Appeals for the District of Columbia Circuit in *South Coast Air Quality Mgmt. District v. EPA* (“*South Coast II*,” 882 F.3d 1138) held that transportation conformity determinations must be made in areas that were either nonattainment or maintenance for the 1997 ozone NAAQS and attainment for the 2008 ozone NAAQS when the 1997 ozone NAAQS was revoked. These conformity determinations were required in these areas after Feb. 16, 2019. The Kalamazoo – Battle Creek area (Calhoun, Kalamazoo and Van Buren counties) was in maintenance at the time of the 1997 ozone NAAQS revocation on April 6, 2015, and was also designated attainment for the 2008 ozone NAAQS on May 21, 2012, and designated attainment for the 2015 ozone NAAQS on Jan. 16 and Aug. 3, 2018. Therefore, per the *South Coast II* decision, this conformity determination is being made for the 1997 ozone NAAQS on the MTPs and TIPs and projects.

This conformity determination was completed consistent with CAA requirements, existing associated regulations at 40 CFR Parts 51.390 and 93, and the *South Coast II* decision, according to EPA's *Transportation Conformity Guidance for the South Coast II Court Decision* issued on Nov. 29, 2018.

1.0 BACKGROUND

1.1 TRANSPORTATION CONFORMITY PROCESS

The concept of transportation conformity was introduced in the CAA of 1977, which included a provision to ensure that transportation investments conform to a SIP for meeting the federal air quality standards. Conformity requirements were made substantially more rigorous in the CAA Amendments of 1990. The transportation conformity regulations that detail implementation of the CAA requirements were first issued in November 1993 and have been amended several times. The regulations establish the criteria and procedures for transportation agencies to demonstrate that air pollutant emissions from MTPs, TIPs and projects are consistent with (“conform to”) the state’s air quality goals in the SIP.

Transportation conformity is required under CAA Section 176(c) to ensure that federally supported transportation activities are consistent with (“conform to”) the purpose of a state’s SIP. Transportation conformity establishes the framework for improving air quality to protect public health and the environment. Conformity to the purpose of the SIP means Federal Highway Administration (FHWA) and Federal Transit Administration (FTA) funding and approvals are given to highway and transit activities that will not cause new air quality violations, worsen existing air quality violations, or delay timely attainment of the relevant air quality standard, or any interim milestone.

1.2 CONFORMITY AREA

The conformity area consists of three counties: Calhoun, Kalamazoo and Van Buren. Within the boundary are the metropolitan planning organizations (MPOs) of the Kalamazoo Area Transportation Study (KATS) and Battle Creek Area Transportation Study (BCATS), and rural projects contained in the STIP in Calhoun and Van Buren counties, as well

as projects.

Findings of this transportation conformity report are for transportation activities contained within the conformity area.

1.3 ATTAINMENT STATUS

On April 15, 2004, the EPA issued final designations of areas not attaining the 1997 ozone NAAQS. Calhoun, Kalamazoo and Van Buren counties were designated a nonattainment area.

On May 16, 2007, the EPA redesignated the area attainment, approving and finding adequate motor vehicle emissions budgets for volatile organic compounds (VOC) and nitrogen oxides (NO_x) for the year 2018. The area was placed into maintenance; this requires conformity emissions to be compared to the motor vehicle emission budgets contained in the SIP.

On July 20, 2012, the EPA designated all of Michigan as attainment for the strengthened 2008 ozone NAAQS.

On July 20, 2013, the EPA partially revoked the 1997 ozone NAAQS, revoking the requirement to do transportation conformity for areas that were in maintenance.

On April 6, 2015, the EPA completely revoked the 1997 ozone NAAQS, which resulted in removal of all transportation conformity requirements.

On April 23, 2018, FHWA began requiring areas in the country to conduct conformity if they were a maintenance area for the 1997 ozone NAAQS and attainment for the 2008 ozone NAAQS when the 1997 ozone NAAQS was revoked. This was to comply with the court's decision in *South Coast II*. The Kalamazoo – Battle Creek conformity area was one of these areas. Later, this was amended to require MPOs to have a conformity in place on Feb. 16, 2019, and conduct conformity going forward.

Calhoun County was designated Jan. 16, 2018, as attainment for the 2015 ozone standard. On Aug. 3, 2018, the EPA designated both Kalamazoo and Van Buren counties as attainment for the strengthened 2015 ozone NAAQS.

On April 6, 2020, the limited (second) maintenance plan for the Kalamazoo - Battle Creek 1997 ozone NAAQS took effect (85 FR 13057). To be considered for a limited maintenance plan, the area must show the design value to be well below the NAAQS and unlikely to violate the NAAQS in the future. Areas with limited maintenance plans are not required to conduct emission modeling for conformity

2.0 METROPOLITAN TRANSPORTATION PLAN OR LONG-RANGE TRANSPORTATION PLAN

The Metropolitan Transportation Plan (MTP), also referred to as a Long-Range Transportation Plan (LRTP), is developed by the MPO to establish a long-term transportation plan. An MTP is federally required for MPOs to receive federal funding and must provide a 20-year (or longer) horizon. Plans are required to be updated every four to five years. The purpose of an MTP is to assess future needs of the area's transportation system and set goals to meet those needs. The planning process can enhance quality of life by fostering the mobility of people and freight in an effective and safe method.

Findings of this transportation conformity report are for transportation activities contained within the conformity area.

3.0 TRANSPORTATION IMPROVEMENT PROGRAM

The TIP is a financially constrained four-year program covering the most immediate implementation priorities for transportation projects and strategies from the MTP.

The TIP identifies proposed projects developed by local agencies in accordance with the joint regulations of the FHWA and the

FTA. These regulations establish the TIP as the programming phase of the overall continuing, comprehensive and cooperative planning process. This planning process includes local jurisdictions, transit agencies, and state and federal transportation officials.

A conformity determination for this maintenance area was conducted on the 2023-2026 TIPs and associated MTPs receiving a letter supporting the conformity findings from FHWA/FTA on Aug. 20, 2024.

Projects known collectively as Marshall Modernization are being constructed within rural Calhoun County and the BCATS area, requiring federal approval or deemed air quality regionally significant. Projects are being funded with only state funds. This conformity report is to ensure that the 1997 ozone maintenance area satisfies its obligation to the CAA. This report evaluates transportation activities contained in:

- The Marshall Modernization projects,
- KATS 2050 MTP,
- KATS 2023-2026 TIP,
- BCATS 2045 MTP,
- BCATS 2023-2026 TIP, and
- Rural STIP projects in Calhoun and Van Buren counties.

4.0 TRANSPORTATION CONFORMITY DETERMINATION: GENERAL PROCESS

- Per the court's decision in *South Coast II*, beginning Feb. 16, 2019, a transportation conformity determination for the 1997 ozone NAAQS will be needed in 1997 ozone NAAQS nonattainment and maintenance areas identified by EPA¹ for certain transportation activities, including updated or amended MTPs and TIPs and projects. FHWA/FTA made its initial 1997 ozone conformity determinations for this area on May 30, 2019. Conformity will now be required no less frequently than every

¹ The areas identified can be found in EPA's "Transportation Conformity Guidance for the South Coast II Court Decision," EPA-420-B-18-050, available at <https://nepis.epa.gov/Exe/ZyPDF.cgi?Dockkey=P100VQME.pdf>.

four years. The current conformity determination report will address transportation conformity for the Marshall Modernization projects as well as projects in 2023-2026 TIPs and rural STIP, and the 2045 MTP for BCATS and KATS 2050 MTP.

5.0 TRANSPORTATION CONFORMITY REQUIREMENTS

5.1 OVERVIEW

On Nov. 29, 2018, EPA issued the **Transportation Conformity Guidance for the South Coast II Court Decision**¹ (EPA-420-B-18-050, November 2018) that addresses how transportation conformity determinations can be made in areas that were nonattainment or maintenance for the 1997 ozone NAAQS when the 1997 ozone NAAQS was revoked but were designated attainment for the 2008 ozone NAAQS in EPA's original designations for this NAAQS (May 21, 2012). The area was designated attainment on Jan. 16 and Aug. 3, 2018, for the 2015 ozone NAAQS.

The transportation conformity regulation at 40 CFR 93.109 sets forth the criteria and procedures for determining conformity. The conformity criteria for MTPs and TIPs and projects includes latest planning assumptions (93.110), latest emissions model (93.111), consultation (93.112), transportation control measures (93.113(b) and (c)), and emissions budget and/or interim emissions (93.118 and/or 93.119).

For the 1997 ozone NAAQS areas, transportation conformity for MTPs, TIPs and projects for the 1997 ozone NAAQS can be demonstrated without a regional emissions analysis, per 40 CFR 93.109(c). This provision states that the regional emissions analysis requirement applies one year after the effective date of EPA's nonattainment designation for an NAAQS and until the effective date of revocation of such NAAQS for an area. The 1997 ozone NAAQS revocation was effective on April 6, 2015, and the *South Coast II* court upheld the revocation. As no regional

emission analysis is required for this conformity determination, there is no requirement to use the latest emissions model, or budget or interim emissions tests.

Therefore, transportation conformity for the 1997 ozone NAAQS for Marshall Modernization projects, the KATS 2050 MTP, BCATS 2045 MTP, both 2023-2026 TIPs, and the rural STIP projects in Calhoun and Van Buren counties can be demonstrated by showing the remaining requirements in Table 1 in 40 CFR 93.109 have been met. These requirements, which are laid out in Section 2.4 of EPA's guidance and addressed below, include:

- Latest planning assumptions (93.110),
- Consultation (93.112),
- Transportation Control Measures (93.113), and
- Fiscal constraint (93.108).

5.2 LATEST PLANNING ASSUMPTIONS

The use of latest planning assumptions in 40 CFR 93.110 of the conformity rule generally apply to regional emissions analysis. In the 1997 ozone NAAQS areas, the use of the latest planning assumptions requirement applies to assumptions about transportation control measures (TCMs) in an approved SIP.

The Michigan SIP does not include any TCMs (see also Section 5.4).

5.3 CONSULTATION REQUIREMENTS

The consultation requirements in 40 CFR 93.112 were addressed both for interagency consultation and public consultation.

Interagency consultation was conducted with KATS, BCATS, the Michigan Department of Transportation (MDOT), the Michigan Department of Environment, Great Lakes, and Energy (EGLE), FHWA, FTA, and EPA. A summary of the Michigan Transportation Interagency Workgroup (MITC-IAWG) meeting on Dec. 4, 2024, and relevant interagency consultation correspondence related to this conformity is in Appendix A.

Interagency consultation was conducted consistent with Michigan's conformity SIP.

Public consultation will be conducted consistent with planning rule requirements in 23 CFR 450. The Public Participation Plan adopted for the rural STIP and those adopted by the MPO policy committee establishes the procedures by which these agencies reach affected public agencies and the public. The same procedures were followed for this document, ensuring the public has an opportunity to review and comment before the BCATS policy committee makes a determination.

A formal public comment period for this draft conformity report is Jan. 2 - 22, 2025. Public comments received and responses to those comments will be in Appendix B.

The BCATS policy committee will make a formal conformity determination through a resolution on Jan. 22, 2025.

5.4 TIMELY IMPLEMENTATION OF TRANSPORTATION CONTROL MEASURES

The Michigan SIP does not include any TCMs.

5.5 FISCAL CONSTRAINT

Transportation conformity requirements in 40 CFR 93.108 state that transportation plans and TIPs must be fiscally constrained consistent with the metropolitan planning regulations at 23 CFR part 450. The MTPs and 2023-2026 TIPs are fiscally constrained, as well as Marshall Modernization projects, as demonstrated in:

- MDOT received \$330 million from Michigan Strategic Outreach and Attraction Reserve (SOAR) fund for the Marshall Modernization projects,
- BCATS 2045 MTP, Chapter 15 Financial Plan,
- BCATS 2023-2026 TIP, Financial Plan,
- KATS 2050 MTP, Chapter 10 Moving Forward,
- KATS 2023-2026 TIP, Financial Plan, and
- 2023-2026 STIP for Calhoun and Van Buren counties.

6.0 CONCLUSION

The conformity determination process completed for the Marshall Modernization projects, the KATS 2050 MTP, BCATS 2045 MTP, both 2023-2026 TIPs, and the 2023-2026 rural STIP for Calhoun and Van Buren counties demonstrates that these planning documents meet the CAA and transportation conformity rule requirements for the 1997 ozone NAAQS.

Appendix A: Meeting Summary of Interagency Workgroup

Meeting Summary Michigan Transportation Conformity Interagency Workgroup (MITC-IAWG) December 4, 2024

Kalamazoo-Battle Creek Limited Orphan Maintenance Area
(Kalamazoo, Calhoun, Van Buren counties),
for the
Marshall Modernization Projects within Calhoun County and the
Battle Creek Area Transportation Study (BCATS MPO)

A MITC-IAWG was conducted by email, indicating three of the eight projects were non-exempt with the other five being exempt and specifying a new conformity report would be required, and requesting concurrence. The group agreed with the recommendations. Responses are listed below. Projects are listed in Appendix C.

Agency	Name	Concur	No Response
<i>Required one response per agency</i>			
EPA	Michael Leslie	x	
FHWA	Jenny Staroska, Christina Nicholaides	x	
FTA	Susan Weber, Kathleen Russell, Cecilia Crenshaw	x	
EGLE	Breanna Bukowski	x	
MDOT Conformity	Donna Wittl	x	
MDOT SPS	Heather Bowden, Maxwell Gierman, Clayton Sigmann, Richard Bayus	x	
KATS MPO	Steve Stepek, Ali Townsend, Megan Mickelson	x	
BCATS MPO	Jeff Franklin	x	
MDOT Southwest Region	Josh Grab, Adrian Stroupe	x	
MDOT Rural STIP	Mark Kloha		x
MDOT SUTA modeling	Daniela Khavajian, Ryan Gladding		x
MDOT OPT	Fred Featherly	x	
MDOT Project Level Conformity	Lane Masoud		x

Wittl, Donna (MDOT)

From: Wittl, Donna (MDOT)
Sent: Wednesday, December 4, 2024 8:24 AM
To: leslie.michael@epa.gov; Staroska, Jenny (FHWA); Nicholaides, Christina (FHWA); Cecilia.Crenshaw@dot.gov; Kathleen.Russell; Bukowski, Breanna (EGLE); Wittl, Donna (MDOT); Sigmann, Clayton (MDOT); Gierman, Maxwell (MDOT); Bowden, Heather (MDOT); Bayus, Richard (MDOT); FranklinJ@bcatsmpo.org; bcats@bcatsmpo.org; Steve Stepek; atownsend@katsmpo.org; mmickelson@katsmpo.org; Kloha, Mark (MDOT); Grab, Joshua (MDOT); Stroupe, Adrian (MDOT); Masoud, Lane (MDOT); Khavajian, Daniela (MDOT); Gladding, Ryan (MDOT); Featherly, Fred (MDOT)
Subject: MITC-IAWG Projects in Calhoun County Review
Attachments: Marshall Modernization projects_2024_12_04.xls

Greetings MITC-IAWG Members and Partners for the Kalamazoo-Battle Creek Limited Orphan Maintenance Area (Kalamazoo, Calhoun, Van Buren counties)

The staff of MDOT has reviewed the eight projects, four CON phases and their associated ROW phase. These projects are completely state funded and together are known as Marshall Modernization.

MDOT is making improvements to M-96 (Michigan Avenue), I-69, as well as the interchanges of I-69 at M-96, and I-94 at M-311 in Calhoun County. The projects will accommodate a large development site south of M-96 for the Ford Blue Oval Battery Park near the city of Marshall.

Two of the projects require federal approval and the other two are considered air quality regionally significant. All four projects are being constructed under a design -build contract.

The eastern part of M-96, JN 218872, and the changes to I-69, JN 217737, plan to be open to traffic at the end of 2025. These two projects are both considered non-exempt.

The other two projects have an open to traffic date of 2027 and are less defined, JN 219004 and 219007. JN 219007 is exempt, given it can be considered an interchange channelization project.

The attached spreadsheet provides more information on each project and its air quality classification. Link to current map of the area: <https://maps.app.goo.gl/FaVzXv6Cxcn45a8r6>

Please review the projects and reply to this email with “concur” if in agreement with the recommendations. If don’t agree respond accordingly. Please use “reply to all.” Responses due on or by **Thursday Dec 12, 2024**.

These changes will require a new conformity determination report.

If there are any questions or if clarification is needed on any of the projects, please ask.

Thank you for your participation,
Donna

Donna Wittl

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Appendix B: Public Comments and Responses

Comments received will be addressed here.

Appendix C: Projects Evaluated for Conformity

Attached are the projects evaluated at the Dec. 4, 2024, MITC-IAWG for this conformity.

The list of projects starts on the following page.

Draft for public comment

Fiscal Year	Open to Traffic	Job Type	Job#	MPO	County	Region	Responsible Agency	Project Name	Limits	Length	Primary Work Type	Project Description	Phase	Phase Status	S/TIP Cycle	S/TIP Status	Fed Estimated Amount	State Estimated Amount	Local Estimated Amount	Total Estimated	Fund Source	Template Name	Air Quality	Air Quality Comment
2024	2025	Trunkline	218872	Rural	Calhoun	Southwest	MDOT	I-69	I-69 at M-96 (Michigan Avenue) Interchange and I-69 from M-96 (Michigan Ave), north to the I-94/I-69 Interchange.	4.370	Reconstruction with modifications	Reconstruct the I-69 at M-96 (Michigan Ave) Interchange into a diverging diamond Interchange (DDI). On I-69, add an auxiliary lane between the I-94 and M-96 interchanges, in both north and south directions. Freeway currently 2 lanes in each direction.	CON	Active	23-26	Approved	\$0	\$74,490,000	\$0	\$74,490,000	M	Marshall Modernization	non-exempt	Project is only state funded but requires federal approval. I-69 interchange is currently 2 lanes in each direction will become three lanes in each direction. Length of each new lane is about 2.2 miles.
2024	N/A	Trunkline	218872	Rural	Calhoun	Southwest	MDOT	I-69	I-69 at M-96 Interchange, I-69 from M-96 to I-94	4.370	Reconstruction with modifications	Reconstruction and modify	ROW	Active	23-26	Approved	\$0	\$10,000	\$0	\$10,000	M	Marshall Modernization	exempt	Row phase does not provide detail enough to do modeling.
2024	2026	Trunkline	217737	Rural	Calhoun	Southwest	MDOT	M-96	2250 feet east of Eden Street to 15 Mile Road South	2.466	Reconstruction with modifications	Reconstruct M-96 (Michigan Ave) from about 2250 feet East of Eden S to 15 Mile Road, currently a 2-lane road, will become a two-lane in each direction divided highway with indirect left turns with flares, length 2.3 miles. There will also be upgrades to C Drive as well as creating a segment of M-96 that will join C drive, which will become M-96 after jurisdictional transfer. There will be upgrades to the current east side of M-96, which will be cut-de-sacked and transferred to Calhoun County upon the completion of this project.	CON	Active	23-26	Approved	0	43500000	0	43500000	M	Marshall Modernization	non-exempt	Air quality regionally significant project (project only state funded). Michigan Ave is in the statewide travel demand model.
2024	N/A	Trunkline	217737	Rural	Calhoun	Southwest	MDOT	M-96	East of Eden Street to 15 Mile Road South	2.466	Reconstruction with modifications	Reconstruction and modify	ROW	Active	23-26	Approved	0	100000	0	100000	M	Marshall Modernization	exempt	Row phase does not provide detail enough to do modeling.
2024	2027	Trunkline	219004	Rural and Battle Creek MPO	Calhoun	Southwest	MDOT	M-96	east of Eden Street to M-311	3.483	Reconstruction with modifications	Reconstruct M-96 (Michigan Ave) from two through lanes with a center left turn lane to a two-lane in each direction divided highway with indirect left turns with flares, length 2.4 miles. Adjacent to Job# 217737.	CON	Active	23-26	Approved	\$0	\$21,000,000	\$0	\$63,000,000	M	Marshall Modernization	non-exempt	Air quality regionally significant (only state funded). Part of project is in the BCATS MPO. Part of M-96 is in the BCATS Travel Demand Model and part in the Statewide model.
2024	N/A	Trunkline	219004	Rural and Battle Creek MPO	Calhoun	Southwest	MDOT	M-96	Marshall Township	3.483	Reconstruction with modifications	Reconstruction and modify	ROW	Active	23-26	Approved	\$0	\$400,000	\$0	\$6,923,000	M	Marshall Modernization	exempt	Row phase does not provide detail enough to do modeling.
2024	2027	Trunkline	219007	Rural and Battle Creek MPO	Calhoun	Southwest	MDOT	I-94	I-94 at M-311 interchange, I-94	6.443	Reconstruction with modifications	Reconstruct and Rehabilitate I-94. Reconstruct I-94 at M-311 (I-94BL) interchange into a diverging diamond interchange (DDI). No changes to capacity of I-94.	CON	Active	23-26	Approved	\$0	\$18,750,000	\$0	\$118,000,000	M	Marshall Modernization	exempt	Project is only state funded but requires federal approval. Intersection channelization projects are exempt.
2024	N/A	Trunkline	219007	Rural and Battle Creek MPO	Calhoun	Southwest	MDOT	I-94	Marshall Township	6.443	Reconstruction with modifications	Reconstruction and modify	ROW	Active	23-26	Approved	\$0	\$0	\$0	\$2,967,000	M	Marshall Modernization	exempt	Row phase does not provide detail enough to do modeling.